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Robert Beckstrom

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EXAMINER

DAYE, CHELCIE L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,371	<b>Applicant(s)</b> BECKSTROM ET AL.	
	<b>Examiner</b> CHELCIE DAYE	<b>Art Unit</b> 2161	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is issued in response to applicant's amendment filed July 16, 2009.
2. Claims 1-20 are presented. No claim added and none cancelled.
3. Claims 1-20 are pending.
4. Applicant's arguments filed July 16, 2009, have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-2, 4-9, 11-12, and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000, further in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998.**

Regarding Claims 1, 11, and 20, Fedorov discloses a method for improving transactions in a communication system, comprising:

monitoring an ongoing data session (column 5, lines 26-29, Fedorov) between first and second parties (column 7, lines 56-59, Fedorov)<sup>1</sup> in an established transaction in the communication system (column 10, lines 48-55, Fedorov); and

conferencing a third party into the transaction as an additional participant in the transaction in response to the monitoring of the data session between the first and second parties (column 2, lines 34-39 and column 8, lines 27-35, Fedorov). However, Fedorov is not as detailed with the data session being a text data session. On the other hand, Eilbacher discloses a text data session (column 6, lines 15-31, Eilbacher)<sup>2</sup>. Fedorov and Eilbacher are analogous art because they are from the same field of endeavor of customer contact centers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Eilbacher's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as a way of not limited the accessibility and functionality of the system. Thereby, broadening the possible usable communication mechanisms.

However, since Fedorov is an automatic call distributor (ACD) environment, it would not be unheard of for other features within the system, such as monitoring and conferencing, to be able to be performed automatically. As well as, by definition, the term automatic means "*acting or done as if by machine; mechanical*" (see The American Heritage College Dictionary, 4<sup>th</sup>

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<sup>1</sup> Examiner Notes: The agent and the customer represent the first and second parties.

Edition); thereby as a broad interpretation detailing the fact that within this particular art, if some action is performed on a computer (i.e. machine) then it is implied to be done automatically. Nevertheless, Fedorov is not as detailed as the examiner would like, with respect to the steps being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer)<sup>3</sup>. Fedorov and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 2, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the third party is at least one of a virtual party and an automated input (column 5, lines 37-50, Shaffer).

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<sup>2</sup> Examiner Notes: The e-mail communication is a representation of a text data session.

<sup>3</sup> Examiner Notes: Shaffer explicitly teaches the step of automatically monitoring and it is understood within the art that if the third party has the capability to automatically monitor the session then the third party also has the capability to automatically conference (i.e. engage).

Regarding Claim 4, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the third party is engaged into a background of the ongoing data session of at least one of the first and second parties in response to the automatic monitoring (column 7, lines 50-54, Fedorov)<sup>4</sup>. However, Federov is not as detailed with the engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 5, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the third party is engaged into a foreground of the ongoing data session (column 8, line 29, Fedorov). However, Federov is not as detailed with the engaging being performed automatically and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring. On the other hand, Shaffer

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<sup>4</sup> Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating

discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer) and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring (columns 7-8, lines 61-67 and 1-5, respectively, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 6, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)<sup>5</sup>.

Regarding Claim 7, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the third party

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in the background of the call.

<sup>5</sup> Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)<sup>6</sup>.

Regarding Claim 8, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov) and wherein measured changes in stress levels of one of the parties based upon a deviation from a preceding time period cause engagement of the third party (column 4, lines 44-63 and columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

Regarding Claim 9, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the method wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

Regarding Claim 12, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the data session is

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<sup>6</sup> Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.



internet based (column 10, lines 48-53, Federov) and monitoring includes monitoring video input of the parties to the transaction (column 6, lines 2-4 and 42-57, Eilbacher) to assist in determining stress levels of the parties (column 11, lines 11-44, Eilbacher).

Regarding Claim 14, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the third party is engaged into a background of the ongoing data session of at least one of the first and second parties in response to the automatic monitoring (column 7, lines 50-54, Fedorov)<sup>7</sup>. However, Fedorov is not as detailed with the engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

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<sup>7</sup> Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

Regarding Claim 15, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the third party is engaged into a foreground of the ongoing data session (column 8, line 29, Fedorov). However, Federov is not as detailed with the engaging being performed automatically and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer) and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring (columns 7-8, lines 61-67 and 1-5, respectively, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 16, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the third party

communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)<sup>8</sup>.

Regarding Claim 17, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)<sup>9</sup>.

Regarding Claim 18, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claim 19, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose the apparatus wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

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<sup>8</sup> Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only

**7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000, further in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Beck (US Patent No. 6,138,139) filed October 29, 1998.**

Regarding Claim 3, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose all the claimed subject matter as stated above. However, Federov, Eilbacher, and Shaffer are not as detailed with the third party is automatically engaged in response to the automatic monitoring to review at least one of text messages and emails before they are sent. On the other hand, Beck discloses the third party is automatically engaged in response to the automatic monitoring to review at least one of text messages and emails before they are sent (column 41, lines 35-39, Beck). Federov, Eilbacher, Shaffer, and Beck are analogous art because they are from the same field of endeavor of a communication center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Beck's teachings into the Federov and Shaffer system. A skilled artisan would have been motivated to combine in order to provide a full multimedia threading of interactions from diverse paths to be seamlessly integrated. Thus, enriching the dialog by providing added meaning and overall efficiency.

**8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000, further in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Miloslavsky (US Patent No. 6,021,428) filed January 22, 1998.**

Regarding Claim 10, the combination of Fedorov in view of Eilbacher, further in view of Shaffer, disclose wherein detection of problematic phrases within the content engages the third party (column 5, lines 29-36, Shaffer). While Shaffer does disclose detecting problematic phrases of content, however, the combination of Fedorov in view of Shaffer, are not as detailed with respect to the problematic phrases being an automatic inspection of content of data messages, text messages, and emails. On the other hand, Miloslavsky discloses automatic inspection of content of data messages, text messages, and emails (column 36, lines 9-36, Miloslavsky). Federov, Eilbacher, Shaffer, and Miloslavsky are analogous art because they are from the same field of endeavor of a telephone call-in-center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Miloslavsky's teachings into the Federov, Eilbacher, and Shaffer system. A skilled artisan would have been motivated to combine as suggested by Miloslavsky at columns 1-2, lines 58-67 and 1-2,

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<sup>9</sup> Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

respectively, in order to introduce the Internet together with advances in computer hardware and software to lead to a new multi-media telephone system, known as Internet protocol network telephony (IPNT). As a result, the use of the IPNT allows for the improved handling of more calls faster and the improvement of other services in every way.

**9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000, further in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Elazar (US Patent No. 6,542,602) filed February 14, 2000.**

Regarding Claim 13, the combination of Fedorov in view of Eilbacher, and further in view of Shaffer, disclose the apparatus wherein one of the parties in the transaction is a customer (column 7, lines 56-59, Fedorov). While Eilbacher does in fact disclose the use of keywords by a customer (column 11, lines 26-50, Eilbacher). However, the combination of Fedorov in view of Eilbacher, and further in view of Shaffer, are not as detailed with detecting a keyword use by the customer indicating that the customer desires to deal with a supervisor. On the other hand, Elazar discloses detecting a keyword use by the customer indicating that the customer desires to deal with a supervisor (columns 10-11, lines 66-67 and 1-6; respectively, Elazar). Fedorov, Shaffer, Eilbacher, and Elazar are

analogous art because they are from the same field of a monitoring system. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Elazar's teachings into the Fedorov, Shaffer, and Eilbacher system. A skilled artisan would have been motivated to combine in order to provide a more customer-based system, which recognizes issues upfront. Therefore, the combination of the references disclose automatically engaging engages the supervisor in response thereto column 4, lines 17-27 and column 5, lines 36-65, Shaffer)<sup>10</sup>.

### ***Response to Arguments***

**Applicant argues, Federov does not teach automatic monitoring, does not concern text data sessions and does not teach automatically conferencing or engaging the third parties (i.e. supervisor) in response to the automatic monitoring.**

Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). As stated in previous office actions, Federov was relied upon for the teaching of monitoring and conferencing (i.e. engaging).

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<sup>10</sup> Examiner Notes: Shaffer explicitly teaches the step of automatically monitoring and it is understood within the art that if the third party has the capability to automatically monitor the session then the third party also has the capability to automatically conference (i.e. engage).

However, Shaffer, was relied upon for the explicit disclosure of performing those steps automatically. Thus, it is the combination of Federov and Shaffer, which teach the automatic monitoring. Next, applicant's arguments that Federov does not concern text data sessions are moot, due to the new grounds of rejection presented above. Lastly, Federov also discusses the system implementing data sharing capabilities along with a data conferencing environment (see col.7, lines 7-21); wherein the system has the capability for a supervisor to monitor calls at agent stations as well as participate in the calls (see col.8, lines 27-35). Thus, again applicant should not argue the references individually when there is a combination of references used to disclose such a feature.

**Applicant argues, Shaffer does not disclose automatic engaging or conferencing or doing so in response to the automatic monitoring, nor does it disclose automatic text or data message session monitoring.**

Examiner respectfully disagrees. To begin, the applicant's argument that Shaffer does not disclose automatic text or data message session monitoring is moot due to the new grounds of rejection presented above. Next, while it is clear that Shaffer does teach the step of monitoring being performed automatically (see col.4, lines 22-27), it would be obvious to one of ordinary skill in the art at the time of the invention to also allow the conferencing (i.e. engaging) step to also be performed automatically as well, if for no other reason but for simplicity and system performance aspects. Therefore, it is understood that Federov's monitoring and conferencing in a third party due to the monitoring would be more time efficient to allow both steps to be performed



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automatically (especially when one of the steps are explicitly taught). Even further, if taken within its broadest sense, the term automatically is merely some act being performed by a machine; thus satisfying the meets and bounds of the claim language due to the fact that within this particular art and environment, every action is being done by a computer.

**Applicant argues, Miloslavsky does not mention the claimed automatic inspection of the contents of the e-mail to detect problem phrases, only a description of routing the e-mails.**

Examiner respectfully disagrees. Miloslavsky does teach the routing of e-mails, but he also teaches routing the e-mails to the most qualified support person, wherein a support person may be an expert in one product, therefore all e-mails related to that product will be routed to that person automatically. Thus, in order for the system to know what content is in the e-mails in order to automatically route them, the system would have to do an inspection of the content. Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.Cir.1986).

**Applicant argues, with regards to claim 8, that Shaffer does not describe measuring a change of stress level based on deviation from a preceding time**

**only various indications of inefficiency; and the Fedorov citation describes live supervisor monitoring not automatic monitoring.**

Examiner respectfully disagrees. Shaffer discloses a detection of voice data patterns that are monitored for poor customer service (such as a length of silence that exceeds a predetermined time interval which tends to indicate that the agent is not providing efficient information, etc.) (see col.4, lines 44-63), that when detected notifies and engages a supervisor into the session (see cols.7-8, lines 66-67 and 1-5; respectively). The different detected voice data patterns correspond to the measuring of a change of stress level based on a preceding time to indicate inefficiency. Lastly, the relied upon citation for Fedorov (col.7, lines 50-54) was cited for the disclosure of the monitoring of the data sessions being conducted in real-time, not for the disclosure of 'automatic monitoring'.

**Applicant argues, neither passage of the Federov reference mentions the claimed review of a text or e-mail message before they are sent or being engaged to do so based upon the automatic monitoring.**

Examiner respectfully disagrees. Applicant's arguments with respect to Federov not disclosing the above claimed features are improper due to the fact that the limitation was rejected under the Beck reference. See rejection above, as well as prior rejection.

**Applicant argues, Federov merely describes automatic monitoring of calls by a supervisor but does not disclose engaging into the background or**

**foreground, or with a party of an ongoing data session or doing so automatically in response to the automatic monitoring.**

Examiner respectfully disagrees. Federov teaches “*a supervisor has the capability, with the appropriate software applications, of monitoring calls, talking to the agent...real time scripting to the agent while a call is in progress*” (see col.7, lines 50-54), wherein the “talking to the agent”, while the call is in progress clearly discloses the third party (i.e. supervisor) engaged into the background of an ongoing data session. This is especially true since the reference only says that the supervisor is talking to the agent (only) not both. Even further, Federov teaches the capabilities described make it possible “*for a supervisor to passively monitor calls at agent stations, to participate in the calls, to communicate with the agent transparent to the caller ...*” (see col.8, lines 26-33). Within the preceding excerpt, the supervisor communicating with the agent transparent to the caller further teaches that the third party is engaged within the background of an ongoing data session. Also, within that same excerpt is the possibility for the supervisor (i.e. third party) to participate in the calls (with both parties), thereby disclosing the engaging within the foreground. Lastly, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). In particular, the argument of doing the engaging automatically in response to the automatic monitoring has already been discussed in the prior response to arguments.

**Applicant argues, Eilbacher does not mention a desire by the customer to deal with a supervisor, as well as Elazar does not teach doing such detection to then engage the supervisor in response.**

Examiner respectfully disagrees. To begin, applicant's argument against Eilbacher is improper since, Eilbacher was relied upon for the disclosure of the use of a keyword by a customer, but not for the desire by the customer to deal with a supervisor. Next, Elazar's teachings of the determining step comprising identifying at least one word spoken, such as 'supervisor', which would possibly indicate a request to speak with a supervisor (col.11, lines 1-6); wherein the determining step is to determine whether the call is to be monitored based on a predetermined condition (see col.8, lines 56-58); along with the supervisor being provided with the data in real-time (see cols.6-7, lines 65-67 and 1-3; respectively) all indicates that such a detection of a keyword would engage a supervisor in response thereto.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571) 272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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